

LEVY KONIGSBERG LLP
ATTORNEYS AT LAW
605 THIRD AVENUE, 33RD FLOOR
NEW YORK, N.Y. 10158

NEW JERSEY OFFICE
QUAKERBRIDGE EXECUTIVE OFFICE
101 GROVERS MILL ROAD
LAWRENCEVILLE, NJ 08648
TELEPHONE: (609) 720-0400
FAX: (609) 720-0457

(212) 605-6200
FAX: (212) 605-6290
WWW.LEVYLAW.COM

ATLANTA OFFICE
ONE GLENLAKE PARKWAY, SUITE 700
ATLANTA, GEORGIA 30328
TELEPHONE: (800) 315-3806
FAX: (212) 605-6290

WRITER'S DIRECT EMAIL: CSTERN@LEVYLAW.COM

AUGUST 31, 2023

VIA EMAIL (REEVES CHAMBERS@MSSD.USCOURTS.GOV)

Honorable Carlton W. Reeves
501 East Court Street, Suite 5.500
Jackson, Mississippi 39201

RE: IN RE JACKSON WATER CASES: DRAFT CMO 1
CIVIL ACTION FILE NO. 3:21-CV-663

Dear Judge Reeves:

I write regarding the Court's Draft Case Management Order No. 1, which was transmitted to the parties by Your Honor's Law Clerk, Andrew Canter, on August 28, 2023. In Mr. Canter's communication, he requested that the parties inform the Court before 1:00 pm CT today as to concerns that could not be overcome together by the parties. Below you will find Plaintiffs' understanding of the issues.

For the Court's ease, in the body of this communication, you will find Plaintiffs' position in **RED**; Defendant State of Mississippi's ("STATE") position in **GREEN**; Defendant City of Jackson's ("JACKSON") position in **BLUE**; and Defendant Trilogy's ("TRILOGY") position in **PURPLE**. In some instances a party's request for new or modified language was agreed to by all parties, and I have noted those instances here as well.

PARTIES' COMMENTS:

1. Section I. "Prior Motions and Orders" does not specifically address answers in the consolidated cases. At the **STATE's** request, **ALL PARTIES AGREE** to add the following language on page 2, after line 33: "Further, the answers of the Defendants filed in '663 are deemed filed in '667, '171, '243, '246, '250, and '478."
2. At the **STATE's** request, **ALL PARTIES AGREE** (for "proper sequential civil cause numbers for future plaintiffs") changing "2200" on page 3, line 65 to "2400."

PLAINTIFFS suggested adding a sentence that says: "additional numeric sequencing will occur if a need arises."

Neither the **STATE**, the **CITY**, nor **TRILOGY** responded to the request.

3. At the **STATE's** request, **ALL PARTIES AGREE** that at the end of that sentence on page 3, line 70, adding the following: "Given that each plaintiff in '663 is duplicated in '246 and each plaintiff in '667 is duplicated in '243, the Deputy Clerks shall assign only one civil action number to each of these plaintiffs (as opposed to one for each case)."
4. At the **STATE's** request, **ALL PARTIES AGREE** that on page 5, footnote 5, be changed to: "The parties have not yet agreed to the contents of a short form complaint for new plaintiffs. Therefore, the Court instructs the parties to submit a proposed short form complaint for new plaintiffs to the Court for approval within seven days of the entry of this order."
5. The **STATE** requests to add the following language on page 6, line 126: "Plaintiffs must also comply will all state laws concerning minor settlement approval."

Defendant **CITY** agrees.

Defendant **TRILOGY** agrees.

PLAINTIFFS disagree and have informed Defendants that the language is unnecessary.

6. The **STATE** proposes the following additional language after the sentence ending on page 7, line 159: "Certain defendants submit that the trial should consist of no more than one plaintiff. The Court will hear argument on the number of trial plaintiffs at a later date."

Defendant **CITY** disagrees.

Defendant **TRILOGY** disagrees.

PLAINTIFFS disagree.

7. The **STATE** proposes changing the following language on page 7, lines 181 – 183 ("that will address the timing of initial disclosures, a protective order, ESI, and any other subject the Magistrate Judge finds appropriate") to ("that will address the necessary orders and protocols to effectuate efficient litigation and any other subject the Magistrate Judge finds appropriate.")

Defendant **CITY** disagrees.

Defendant **TRILOGY** disagrees.

PLAINTIFFS disagree.

8. **PLAINTIFFS** propose that after the language on page 5, lines 111 – 123 ("If counsel for the plaintiffs wishes to add new plaintiffs, they shall file on the Master Docket a motion to add plaintiff(s) and, for appellate record purposes, attach each proposed new plaintiff's short form complaint as an exhibit to the motion") the following language be added: "The Court has indicated that, the City and State defendants could and should waive their MTCA pre-suit notice requirement Miss. Code Ann. § 11-46-11(3). This would alleviate the need to file pre-suit notice requirement prior to filing of an additional short form complaint for additional Plaintiffs. The City and State shall indicate their position on this within 30 days of the filing of this order."

Defendant **STATE** disagrees.

Defendant **CITY** disagrees.

Defendant **TRILOGY** disagrees.

If we can be of any further assistance regarding these or other matters, please do not hesitate to let us know, as we are always available.

Sincerely,

LEVY KONIGSBERG, LLP



Corey M. Stern

cc – All Counsel of Record (by email only)